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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,938	07/18/2003	David L. Oswald	23-0070 (31015)	3467

40158 7590 12/11/2008
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EXAMINER

PHILIPPE, GIMS S

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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12/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/622,938

Applicant(s)

OSWALD, DAVID L.

Examiner

Gims S. Philippe

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6 and 16-21 is/are allowed.
- 6) ☒ Claim(s) 7, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 8-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Applicant's amendment received on August 15, 2008 has been fully considered and entered, but the arguments are moot in view of the new ground(s) of rejection.

Claim Objections

1. Claim 22 is objected to because of the following informalities: The preamble of the claim is not tied to the body of the claim. While the preamble is not given patentable weight, it must reflect the language of the body of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 22 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility.

The claim calls for "In combination". The claim is considered to be non statutory since the phrase "in combination" does not specifically provide substantial established step of making what is being claimed.

Claim 22 also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well

established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Claim 23 is rejected by dependency to claim 22.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutton Jr. (US Patent no. 5923361) in view of applicant's admitted prior art.

Regarding claim 7, Sutton discloses in fig. 1 a remote video computer monitoring system for use with conventional computing systems, comprising a video tap assembly for tapping a video signal routed from a video output of a conventional computer to a monitor (See fig. 1, item 66), said video tap assembly splitting off a portion of the video signal while allowing a second portion of the video signal to pass through to the monitor (See fig. 1, splitter 28); a transmitter assembly operationally coupled to said video tap assembly, said transmitter assembly propagating said portion of the video signal as a propagated signal (See fig. 1, transmitter 61); and a monitoring assembly for receiving

said propagated signal and presenting a visual representation of the video signal to a user (See fig. 1, monitor 20, 22,24, and 26).

It is noted that Sutton Jr. is silent about the additional limitations wherein the monitoring further comprises a receiver assembly, a demodulator and a video output as specified in the claim.

However, the applicant's own claim notes that such system is rather conventional and has been used in conventional computing (See applicant own claim 7, lines 2 and 5).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying Sutton's computer monitoring system by incorporating the industry well know and commonly used steps to provide a video output to a conventional computer monitor for the purpose of representing visual representation of the video signal to a user.

Claims 8-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 2-6, 19-21 and 16-18 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gims S Philippe
Primary Examiner
Art Unit 2621

/G. S. P./
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